



# Staff Report

**To:** City of Imperial Planning Commission

**From:** Lisa Tylenda, Planner

**Date:** September 7, 2017

**Subject: Conditional Use Permit Request #17C04  
Mozzarelli Restaurant-Arc Imperial Valley  
123 W Barioni Blvd-Suite B, Imperial, CA 92251**

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## Background

The applicant is requesting a Conditional Use Permit to allow the operation of an eating and drinking establishments with alcoholic beverages. Applicant must obtain a Conditional Use Permit to allow the sale of alcoholic beverages at that location. The property is currently zoned VC (Commercial Village), parcel is part of the Downtown Imperial Redevelopment Master Plan. There are no zoning conditions currently imposed on this property.



## Evaluation

The Zoning Ordinance provides flexibility in the regulation of uses to ensure that unusual characteristics of certain uses are properly addressed in furtherance of the Imperial Zoning Ordinance. Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a CUP. The required findings are listed below in **bold**, followed by an evaluation.

- 1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.**

The proposed project site is located within the V-C Village Commercial zone which, amongst other things, is intended as the social heart of the City. Land uses within this zone are intended to be less intensive than those in other commercial zones.

- 2. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.**

A Type 41 beer and wine license for eating place (Restaurant) authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises

Noise from delivery trucks may be audible and bothersome to the residents of the proposed Worthington Square mixed-use development but the noise will be intermittent and infrequent. The level of noise resulting from the restaurant would be similar to those permitted within the V-C zone.

The restaurant may produce some odor due to the nature of use. The level of odor resulting from the restaurant would be similar to those permitted within the V-C zone.

Sufficient parking (as defined in the V-C zone as it relates to the "park once" strategy for Downtown Imperial) is available for the patrons and the amount of traffic generated by the project will be minimal and within the capacity of surrounding streets.

**3. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.**

The proposed facility shall comply with all provisions of the Zoning Ordinance.

**Environmental Compliance**

The project are categorically exempt from the California Environmental Quality Act (CEQA) under Class 3, Section 15303 of the Guidelines. CEQA identifies this as Class 3 Conversion of Small Structure exemption and is listed in Title 14, Article 19, Section 1503 of the California Code of Regulations. A Class 3 exemption consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structure form one use to another where only minor modifications are made in the exterior of the structure.

**Recommendation**

Staff recommends the Planning Commission conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, Staff recommends approval of **Resolution PC2017-12** approving a conditional use permit for the Mozzarelli Pizza located at 123 W Barioni Boulevard, Suite B subject to Conditions of Approval.

Respectfully Submitted,

Lisa Tylenda  
Planner

## RESOLUTION PC2017-12

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL APPROVING A CONDITIONAL USE PERMIT (17C04) TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES

#### (ARC IMPERIAL VALLEY – MOZZARELLI BISTRO/RESTAURANT)

**WHEREAS**, Arc Imperial Valley & Ric Brown submitted a Conditional Use Permit application to allow the operation of an eating and drinking establishments with alcoholic beverages at 123 W. Barioni Blvd. Suite B; and

**WHEREAS**, a duly notified public hearing was held by the Planning Commission on September 13, 2017; and

**WHEREAS**, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written comment received, the Planning Commission considered all facts relating to the request for a Conditional Use Permit.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act; and
- C) There are no sensitive resources located within the area of the project or adjacent to the area of the project so as to be significantly impacted by the project; and
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is Categorically Exempt under Section 15303 of the California Environmental Quality Act; and
- E) That the operation of an eating and drinking establishment with alcoholic beverages is consistent with those uses allowed in the V-C Village Commercial Zone.
- F) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES** Conditional Use Permit #17C04 (Mozzarelli Bistro/Restaurant) for a eating and drinking establishments with alcoholic beverages at 123 W. Barioni Blvd. Suite B, is subject to the conditions of approval outlined in Exhibit A and based on the following findings:
  - 1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.
  - 2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to

adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.

3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for an approved Variance.

**PASSED, ADOPTED AND APPROVED** by the Planning Commission of the City of Imperial, this 7<sup>th</sup> day of September 2017.

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Planning Commission Chairman

ATTEST:

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Planning Secretary

**EXHIBIT A  
RESOLUTION PC2017-12**

**CONDITIONS OF APPROVAL**

**For**

**Conditional Use Permit #17C04  
Mozzarelli Bistro/Restaurant  
123 W. Barioni Blvd. Suite B  
Imperial, CA 92251**

1. This Conditional Use Permit is granted for Mozzarelli Bistro/Restaurant space at 123 W. Barioni Blvd. Suite B, Imperial, CA 92251. This Conditional Use Permit shall only be valid so long as the Type 41 ABC License is valid for the original applicants.
2. The sales of alcoholic beverages are to begin at 11:00AM and end at 9:00PM Monday through Sunday.
3. The City of Imperial will issue a Business License for 123 W. Barioni Blvd. Suite B, once the street stripping has been completed for the Worthington Square project. Application for Street Stripping must be formally submitted for review and approval.
4. No sales or service to intoxicated patrons.
5. No alcoholic beverages shall be consumed outside of the enclosed building. The City, at its sole discretion, may issue a Temporary Use Permit to allow for special events where alcoholic beverages may be consumed outdoors.
6. The provisions of this Conditional Use Permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project. This Conditional Use Permit is only valid for 123 W. Barioni Blvd Suite B, Imperial, CA 92251.
7. A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control (ABC) license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.
8. The proprietor/owner shall be responsible for the removal of all graffiti from the walls, fences, pavement, or buildings within 72 hours of its appearance on the property.
9. The proprietor/owner shall be responsible for maintaining the parking lot and adjacent areas free of litter at all times.
10. Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
11. The conditional approval of the Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
12. Applicant must implement sound maintenance and housekeeping procedures.

13. Dispose of process solid wastes as by-products for animal feed.
14. The Applicant shall pay all impact and capacity fees as required by the city.
15. All applicable Conditions of Approval shall be completed prior to opening for business.
16. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the CUP, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the CUP, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.
17. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
18. Permittee shall not be permitted to maintain a "nuisance", which is anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the approved project.